

1
2
3
4
5
6

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 STEPHEN AHMANN,
11 Plaintiff,
12 vs.
13 B. PENNY, et al.,
14 Defendants.

Case No. 2:06-CV-01088-RLH (GWF)

ORDER and FINDINGS & RECOMMENDATIONS

16 This matter is before the Court on Plaintiff's Amended Complaint (#6), filed on September
17 20, 2006; Plaintiff's Emergency Motion for Protective Order (#7), filed October 2, 2006; Plaintiff's
18 Demand for a Speedy Trial (#8), filed October 2, 2006; Plaintiff's Motion to Amend Complaint
19 (#9), filed October 2, 2006; and Plaintiff's Application for Direction of Service In Forma Pauperis
20 (#10), filed October 2, 2006.

21 On September 7, 2006, this Court dismissed Plaintiff's Complaint as frivolous, with leave to
22 amend. The above motions followed in response to the Court's Order (#4). As stated in the Court's
23 previous Order, federal courts must dismiss the claim of a plaintiff proceeding *in forma pauperis*, if
24 the action "is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks
25 monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e). A
26 complaint is frivolous "where it lacks an arguable basis either in law or in fact . . . [The] term
27 'frivolous,' when applied to a complaint, embraces not only the inarguable legal conclusion, but also
28 the fanciful factual allegation." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see also Cato v.*

1 *United States*, 70 F.3d 1103, 1106 (9th Cir. 1995). “[A] finding of factual frivolousness is
 2 appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether
 3 or not there are judicially noticeable facts available to contradict them. An *in forma pauperis*
 4 complaint may not be dismissed, however, simply because the court finds the plaintiff's allegations
 5 unlikely.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). Allegations of a pro se complainant are
 6 held to less stringent standards than formal pleadings drafted by lawyers. *Haines v. Kerner*, 404
 7 U.S. 519, 520 (1972) (per curiam).

8 In the instant case, the Plaintiff has alleged that conspirators have used an “electronic
 9 communication devise (sic) set at distorted volumes with the intent to cause physical pain and
 10 torture.” Plaintiff has named two individuals, Officer B. Penny and Judge William Jansen as party
 11 to this action, insomuch as they have had knowledge of this alleged harassment and have done
 12 nothing to stop it, or that they have falsified information to allow these circumstances to continue.
 13 Plaintiff’s claims, however, rise to a level of fanciful, irrational, and wholly incredible. Plaintiff’s
 14 Amended Complaint states that he was subjected to being killed, poisoned, raped, being held in jail
 15 forever, hypnotized, having items stolen, stalked and many other offenses.

16 Plaintiff’s complaints, taken in sum, are wholly incredible and in some cases impossible.
 17 While Plaintiff argues that some things that were once wholly incredible or irrational are now
 18 common place, such as manned flight, his allegations still rise to the level of wholly incredible and
 19 irrational. The Court cites as one example, Plaintiff’s claim of being killed by his assailants and yet
 20 somehow is still here to file this action.

21 Plaintiff has also again requested (#9) that a protective order be entered, presumably against
 22 Defendants, to keep them from reading his mind, stalking him, hypnotizing him and performing
 23 many other alleged actions. As discussed above, Plaintiff’s claims are fanciful, irrational and
 24 wholly incredible. As with Plaintiff’s Amended Complaint (#6), there is no factual basis for
 25 granting a protective order. Accordingly,

26 **IT IS ORDERED** that Plaintiff’s Emergency Motion for Protective Order (#7) is **DENIED**.

27 **IT IS HEREBY RECOMMENDED** that Plaintiff’s Amended Complaint (#6) be
 28 **DISMISSED** with prejudice.

1 **IT IS FURTHER RECOMMENDED** that Plaintiff's Demand for a Speedy Trial (#8),
2 Plaintiff's Motion to Amend Complaint (#9), and Plaintiff's Application for Direction of Service In
3 Forma Pauperis (#10), be **DENIED** in accordance with the dismissal of Plaintiff's Complaint.

DATED this 11th day of October, 2006.

George Foley Jr.
**GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE**